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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,263	02/25/2002	Vincent P. Vaccarelli	D/A2038	4221

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EXAMINER

KRAMER, JAMES A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/083,263	VACCARELLI ET AL.	
	<b>Examiner</b> James A. Kramer	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, claim 1 includes “at least one problem solver”. Applicant discloses on page 6, that a problem solver is a human, which is non-statutory subject matter. Applicant cannot claim a human being.

Claims 10 - 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 10-18 only recite an abstract idea. The recited steps of merely sending a query, receiving a response, analyzing the response, transmitting a solution and

sending a query do not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how ensure customer satisfaction.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces salutations to customer's problems (i.e., useful and tangible). Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, the claims are deemed to be directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 as interpreted by the Examiner are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakakibara et al in US Patent Number 6,564,227 (hereinafter '227).

'227 teaches a customer support system in which a customer support center collects usage information and quality information on a customer device. The customer support center stores part or all of the information and uses the information for supporting the customer (column 4; line 61 – column 5; line 3).

'227 further teaches that the customer support center remotely sets data which the customer device should transmit or the time at which the device should transmit (column 9; lines

34-36). Examiner notes that this feature represents automatically querying the customer at a predetermined time as to problems with goods. The data sent from the device represents receiving information from a customer to the query.

‘227 also teaches when receiving fault information, the customer support center reports the matter to customer information system in charge of maintenance and/or management of the customer device (column 2; lines 31-34). Examiner notes this represents analyzing the response received from the customer, determining the a problem exists and transmitting to a problem solver.

‘227 teaches the customer information system in charge of maintenance after confirming that a problem exists provides instructions for repair or manages progress of the state from the reception of the problem to restoration (e.g. column 4; lines 10-20). Examiner notes that this represents transmitting a solution to the customer.

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‘227 does not teach sending a query to the user requesting verification that the problem has been solved. Examiner takes Official Notice that it is old and well known in the art to send “follow-up” queries to customers in order to verify that the work performed was done to the customer’s satisfaction. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of ‘227 to schedule an additional query right after a fault has been handled in order to verify that the problem has been resolved to the customer’s satisfaction.

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‘227 does not specifically mention querying the customer once a week or once a month. Examiner takes Official Notice that regular querying is old and well known in order to continuously monitor a customer’s status. It would have been obvious to a person of ordinary

skill in the art at the time the invention was made to modify the customer support center of '227 to remotely sets date for querying to once a month or once a week to continuously monitor the status of the customer device.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,737,726 to Cameron et al. teaches that it is desirable for vendors and service providers to have the ability to communicate with their customers, such as customer surveys (column 1; lines 30-35).

5,594,791 to Szlam et al. teaches a method and apparatus for providing result-oriented customer service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

James A. Kramer  
Examiner  
Art Unit 3627

JAK

Richard Chilcot  
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